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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/730,937

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David Bain

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11/27/2006

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EXAMINER

NGUYEN, TAN D

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/730,937

Applicant(s)

BAIN, DAVID

Examiner

Tan Dean D. Nguyen

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/7/06 has been entered.

Response to Amendment

2. The amendment filed 9/07/06 has been entered. Claims 3-20 are pending. Claims 1-2 have been canceled.

As of 9/7/06, claim 3 is as followed:

3. (Currently Amended) A method of raising capital comprising:
- (a) establishing an on-line site for registering and broadcasting a bounty offering; said bounty offering including a reward offered by at least one benefactor, and a condition to be completed in order for a beneficiary to receive the reward;
 - (b) broadcasting said bounty offering on-line to a plurality of actors;
 - (c) broadcasting said bounty offering to a plurality of viewers, and wherein said viewers in response to viewing said broadcast contribute money towards the reward to be paid by the benefactor and
 - (d) paying the reward to a designated party upon the completion of the condition by one of the plurality of actors.

Note that the alphabetical letters (a)-(d) are attached to the steps for convenience purpose to avoid typing of the whole phrase.

Claim Objections

3. Claim 4 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 3 requires the carry out of the steps (a), (b) (d) which are critical to the scope of the claimed invention on an on-line website but claim 4 says the broadcasting of (b) is carried out on television which is improper because television does not further limit on-line site and what is the connection of the "television" with respect to steps (a) and (b) and (d) which depends on (a) and (b)? Therefore, claim 4 is objected or carries no patentable weight because television does not further limit the carrying out of the scope of claim 3 on an on-line site.

4. Claims 10-12 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 9 requires the broadcasting of a bounty offering (or 1 offering) but claim 10 calls for broadcasting a plurality of bounty offerings simultaneously which does not further limit the specific (said) bounty offering of claim 1 above.

5. **Claims 3-8, 19 and 9-15, 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

(1) In independent claims 3 and 9, the preamble calls for "a method of raising capital" but there is no discussion in the body of claims 3-8, 9-15 how the capital is raised and for whom? Beneficiary or participant or a designated party?

(2) In the 1st step of claims 3 and 9, there is a citation of "for registering" but it's not clear who are the registrar or registering whom? Contestant or beneficiary?

(3) In claim 3, the term "actors" is vague. Actor of what? Are these merely viewers (or participants) of the broadcasting bounty offering who happen to have a career as actor or politician? The career or job of the game participant is non-functional descriptive and carry no patentable weight in the scope of the claimed invention since there is no "acting" or "governing" involved.

(4) In claim 3, it's not clear the relationship of the "beneficiary" in step (a) and "a designated party" in step (d) with respect to "to receive the reward"? Are they the same or different? It appears that they are the same.

(5) Claim 8 is vague because it depends on claim 1 which has been canceled.

(6) Dep. claim 13 recites the limitation "said plurality of bounty offerings" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 3-8, 19 (method¹), 9-10, 14, 15, 20 (method²), 16-18 (method³) are rejected under 35 U.S.C. 103(a) as obvious over (1) COSTIN, IV et al in view of (2) KAPLAN and (3a) BT SWIMATHON '99 or (3b) FIDLER.**

As of 9/7/06, claim 3 is as followed:

3. (Currently Amended) A method of raising capital comprising:

(a) establishing an on-line site for registering and broadcasting a bounty offering; said bounty offering including a reward offered by at least one benefactor, and a condition to be completed in order for a beneficiary to receive the reward;

(b) broadcasting said bounty offering on-line to a plurality of actors;

(c) broadcasting said bounty offering to a plurality of viewers, and wherein said viewers in response to viewing said broadcast contribute money towards the reward to be paid by the benefactor and

(d) paying the reward to a designated party upon the completion of the condition by one of the plurality of actors.

Note that the alphabetical letters (a)-(d) are attached to the steps for convenience purpose to avoid typing of the whole phrase.

As for independent method¹ claim 3, on Fig. 4B, **KAPLAN** discloses a method of fundraising for charity comprising the steps of:

(a) establishing an on-line site for registering and broadcasting fundraising event, a game of a bounty offering (game or competition with reward) {see [0003, 0051 "*Online Distributed Problem Solving*" (ODPS), 0058, 0059, 0060, Fig. 4A, Fig. 4B} and said bounty offering including a reward offered by at least one benefactor (giver) {[0058 "*how much money the customer is willing to pay*"] and a condition to be completed (solving the problem) in order for a beneficiary to receive the reward {[0060, 0061]};

(b) broadcasting said bounty offering on-line to a plurality of participants (players) {[0051, 0065], Figs. 1, 4B}};

(c.) broadcasting said bounty offering to a plurality of viewers (parties) {[0051, 0065], Figs. 1, 4B}};

(d) selecting the beneficiary from the plurality of participants (parties) by determining a first party to complete the condition (solving the problem) {Figs. 1, 4A and 4B, [0060, 0061]}.

KAPLAN fairly teaches the claimed invention except for the participants (contestants) in (b) are actors and the viewers in (c.) contribute money towards the campaign fund.

On Figs. 3, 8, 12, **COSTIN, IV et al** disclose a method for raising capital (funds) comprising the steps of:

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(a) establishing an on-line site for registering and broadcasting a fundraising event, said event including a donation reward offered by at least one benefactor (sponsor);

(b) broadcasting said event on-line to a plurality of participants;

(c) broadcasting said event to a plurality of viewers, and wherein said viewers in response to viewing said broadcast contribute money towards the reward (event result or goal) to be paid by the benefactor and

(d) paying (giving or distributing) the funds or capital (money) to a designated party (charity organization) upon the completion of the condition by one of the plurality of participants (Fig. 8, Y-ME 5k race).

Note on Fig. 1b, COSTIN, IV et al discloses several ways to raise funds for charity by acquiring donations from various customers (donors), i.e. (1) fund (capital or money) from the business/sponsor, and (2) fund (capital or money) from the viewer/participant/user or donor. COSTIN, IV et al fairly teaches the claimed invention except for the type of fundraising event or game (not a bounty offering) and wherein the participants (contestants) are actors or the career of the participant is actor.

In another fundraising campaign for charity organization, FIDLER is cited to teach the use of celebrity as contestants and the prize money or prized of the contest is directed to charitable purpose or organization such as American Red Cross [0088]. The celebrity normally has a great influence, attracting a lot of attention and drawing a crowd or follower which could lead to increase participation in the fundraising campaign.

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In another fundraising campaign for charity organization, BT SWIMATHON '99 is cited to teach the use of celebrities (i.e. model Sheryl Gascoigne, TV presenter Anna Walker, MBE, Gladiators Hunter and Rhino, etc.) as contestants and the prize money or prized of the contest is directed to charitable purpose or organization such as NSPCC and other national charities, see page 1. The celebrity normally has a great influence, attracting a lot of attention and drawing a crowd or follower which could lead to increase participation in the fundraising campaign.

It would have been obvious to modify the teachings of KAPLAN by including features on the online website for viewers to donate (contribute money) toward the campaign fund as taught by COSTIN, IV et al above and selecting celebrities as contestant as taught by FIDLER or BT SWIMATHON '99 since they normally have great influence, attracting a lot of attention and drawing a crowd or follower which could lead to increase participation in the fundraising campaign.

As for dep. claim 4 (part of 3 above) which deals with the medium for broadcasting the bounty offering, i.e. traditional media such as by television, this is non-essential to the scope of the claimed invention and would have been obvious to a skilled fundraiser manager to use any traditional media for communication with donors such as television, radio, live events, or mails. Moreover, this is fairly taught by FIDLER [0005], [0083 "... *the Internet link and the television game show (network) are intertwined*"]. Note that COSTIN, IV et al disclose the use of the latest medium, Internet, due to its ubiquity (being available everywhere at the same time) and lower cost and more effective. The use of conventional media and higher cost, by television, to supplement

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or reach out to other donors familiar with the old media would have been obvious if desired to reach out the donors using various medias.

As for dep. claim 5 (part of 3 above) which deals with the broadcasting parameters, i.e. a plurality of broadcasts simultaneously, since it's well known in the art the practice of "duplicating of services (parts) for multiple effects, see St. Regis Paper Co. vs. Bemis Co., 193 USPQ 8, 11; 549 F2d 833 (7th Cir. 1977), it would have been obvious to a skilled artisan to duplicate the broadcast and carrying them out simultaneously to reach out to more donors or multiple effects. See also COSTIN, IV et al Fig. 8. Moreover, this is also taught in KAPLAN this feature is taught in [0026, 0042 "*simultaneously*"], 0220 "*simultaneously*"].

As for dep. claim 6 (part of 3 above) which deals with the benefit to the benefactor for contributing towards the reward, this is taught in COSTIN, IV et al [0002 "*mutual gain ... positive impact on the business*"], and [0005 "*enhance brand reputation, acquire customers, and contribute to charitable well being*"].

As for dep. claim 7 (part of 3 above) which deals with online registering parameters, this is fairly taught in COSTIN, IV et al Figs. 2, 6, 8 "Registering", [0009], [0010], and KAPLAN [0061].

As for dep. claims 8, 19 (part of 3 above) which deals with well known fundraising parameters, i.e. updating status of reward, goal, contribution (donation), etc., these are fairly taught in COSTIN, IV et al Figs. 3, 6, 8, 12 and 13. The updating of any features to accurately indicate the campaign status or fundraising campaign

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parameters would have been obvious to a skilled artisan as mere indicating other fundraising campaign monitoring parameters, absent evidence of unexpected results.

As for independent method² claim 9, which has similar limitations as in independent method¹ claim 3 above, it's rejected for the same reasons set forth in the rejection of claim 3 above.

As for dep. claim 10 (part of 9 above), which deals with broadcasting parameters, i.e. broadcasting a plurality of events simultaneously, this feature is taught in [0026, 0042 "*simultaneously*"], 0220 "*simultaneously*"]. Alternatively, the presentation of more than one bounty offering vs. an offering would have been obvious to a skilled artisan as mere duplicate of parts for multiple effects. See *In re* Harza, 124USPQ378, CCPA 1960.

As for dep. claims 11-13 (part of 9 above), which deal with donation or benefactor parameters, i.e. 2nd benefactor paying a competition reward, etc., these are non-essential to the scope of the claimed invention and would have been obvious to do so as mere different ways of providing a reward money while involving more people, thus reducing the amount of giving/person.

As for dep. claim 14 (part of 9 above), which deals with the type of condition or conditioning parameters, i.e. the solving of a problem, this is non-essential to the scope of the claimed invention and is taught in Figs. 1, 4A or 4B or [0024-0025].

As for dep. claim 15 (part of 9 above), which deals with the type of condition or conditioning parameters, i.e. the solving of a problem such as a cure for a disease, this is non-essential to the scope of the claimed invention and is taught in Figs. 1, 4A or 4B or [0024, 0025].

As for dep. claim 20 (part of 9 above), which has the same limitation as in dep. claim 19 (part of 3 above), it's rejected for the same reasons set forth in the rejection of dep. claim 19 above.

As for independent method³ claim 16, which is basically the combination of claims 3 and 4 above, it's rejected for the same reasons set forth in the rejections of claims 3 and 4 above. See also, KAPLAN Fig. 4B, top paragraph, wherein the total reward of \$500.00 has been given to charity "*total charitable donation amount of \$500.00 has been split among several questions*".

As for dep. claim 17 (part of 16 above), this is taught in COSTIN, IV et al in Figs. 3, 8, 12.

As for dep. claim 18 (part of 16 above), which has the same limitation as in dep. claim 19 (part of 3 above), it's rejected for the same reasons set forth in the rejection of dep. claim 19 above.

9. Claims 3-8, 19, 9-15, 20, 16-18 are rejected (2nd time) under 35 U.S.C. 103(a) as being unpatentable over (1) COSTIN, IV et al in view of (2) KAPLAN and (3a) BT SWIMATHON '99 or (3b) FIDLER.KAPLAN and further in view of (4) SMITH (US 2002/0111815).

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As for independent method² claim 3, the teachings of (1) COSTIN, IV et al in view of (2) KAPLAN and (3a) BT SWIMATHON '99 or (3b) FIDLER is cited above. SMITH is cited to teach that if a donor's financial situation suddenly improves such as winning a game award, the donor may be inclined to be more generous such as giving to charity {see [0005]}. It would have been obvious to modify the teachings of (1) COSTIN, IV et al in view of (2) KAPLAN and (3a) BT SWIMATHON '99 or (3b) FIDLER by allowing the winner of a game or competition to give the award to charity as taught by SMITH above as mere being generous.

As for dep. claims 4-8, 19, they are rejected for the same reasons set forth above.

As for claims 9-15, 20, 16-18, they are rejected for the same reasons set forth above.

Response to Arguments

10. Applicant's arguments with respect to the 102/103 rejections of claims 3-15 have been considered but are moot in view of the new ground(s) of rejection which are caused by applicant's amendments. Applicant's other arguments, such as 112, 2nd and other are not persuasive, for the cited discussions as indicated above.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

(1) US 2002/0091538 by Schwartz et al., paragraphs [0097]-[0098], [0015]-[0016], disclose traditional media fundraising events, including live events, on TV or radio, mails, and the new ways for improving effectiveness of the traditional media, Internet or website, the combination of the traditional media, TV, and the new media, Internet or website, simultaneously to reach out to all people of various medias, would have been obvious to a skilled artisan. This reads over the scope of independent method claim 16, but citing here for applicant's awareness of potential use in the future if needed to reject claims 16-18.

No claims are allowed.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through private PAIR only. For more information about the PAIR system, see <http://pair-direct@uspto.gov>. Should you have any questions on access to the private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

In receiving an Office Action, it becomes apparent that certain documents are missing, e. g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (571) 272-3600, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (571) 272-6806. My work schedule is normally Monday through Friday from 6:30 am - 4:00 pm. I am scheduled to be off every other Friday. My email is dean.Nguyen@uspto.gov.

Should I be unavailable during my normal working hours, my supervisor John Weiss can be reached at (571) 272-6812.

The main FAX phone numbers for formal communications concerning this application are (571) 273-8300. My personal Fax is (571) 273-6806. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

dtn
November 21, 2006


DEAN T. NGUYEN
PRIMARY EXAMINER